

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Court File No. CR-21-93 (JRT/TNL)

United States of America,
Plaintiff,

Motion to Retain Rough Notes

v.

Robbin Allen Thomas,
Defendant.

Pursuant to 18 U.S.C. Sec. 3500 and *Brady v. Maryland*, 373 U.S. 83 (1963), Defendant Robbin Allen Thomas hereby moves the Court for an order requiring any law enforcement agent, including any confidential reliable informants, to retain and preserve all rough notes taken as a part of their investigation, whether or not the contents of such rough notes are incorporated in official records. The grounds for the motion are:

1. Rough notes are considered statements within the meaning of 18 U.S.C. Sec. 3500(e)(1); *United States v. Bernard*, 607 F.2d 1257 (9th Cir. 1979); *United States v. Gaston*, 608 F.2d 607 (5th Cir. 1979);
2. Destruction of rough notes by law enforcement officials usurps the judicial function of determining what evidence must be produced. *United States v. Harris*, 543 F.2d 1247 (9th Cir. 1976);
3. The rough notes may contain facts favorable to the defense.

This motion is based upon the files, records, and proceedings in this case and such additional arguments and authorities as may be submitted.

Respectfully submitted,

Dated: September 8, 2021

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